

HOUSE BILL No. 1304

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-4-8; IC 3-7-31-5; IC 3-8; IC 3-9-3-2.5; IC 3-11; IC 3-13-1.

Synopsis: Various election matters. Allows the election commission to allow use of an earlier version of an election or registration form if: (1) the earlier form complies with federal and state election law; (2) the earlier form will not be confusing to the user; and (3) use of the earlier form will prevent waste and unnecessary expense. Requires an applicant to provide the last four digits of the applicant's Social Security number on a voter registration form. Provides that various petitions must contain the birth date of each petitioner. Exempts a distribution of not more than 100 substantially similar fliers, handbills, or brochures from the disclaimer requirements for campaign materials. Changes the size of a precinct from 1,200 voters to 2,000 voters. Eliminates the requirement that a circuit court clerk identify the precinct on a ballot card's secrecy envelope. Eliminates the post-test requirement for an optical scan voting system. Changes the date by which a vacancy on a general or municipal ballot must be filled from August 1 to not later than 30 days after the primary. Assigns the following topics to the census data advisory committee: (1) Requiring municipal election calendars to conform to county, state, and federal elections. (2) The movement of municipal elections from odd-numbered years to even-numbered years.

Effective: Upon passage; January 1, 2001.

Richardson, Burton

January 11, 2000, read first time and referred to Committee on Elections and Apportionment.



C
o
p
y

Introduced

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE BILL No. 1304

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-5-4-8, AS AMENDED BY P.L.38-1999,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2001]: Sec. 8. (a) Except as provided in subsection (e),
4 but notwithstanding any other statute, whenever the commission acts
5 under IC 3-6-4.1-14 to approve a uniform election or registration form
6 for use throughout Indiana or to approve a revision to an existing form,
7 a person must use the most recent version of the form approved by the
8 commission to comply with this title after the effective date of the
9 commission's order approving the form.
10 (b) Except as provided in subsection (d) or (f), before an order
11 approving a form takes effect under this section, the election division
12 shall transmit a copy of each form or revised form approved by the
13 order to the following:
14 (1) Each circuit court clerk, if the commission determines that the
15 form is primarily used by a candidate, a county election board
16 member, a county or town political party, or for absentee ballot
17 purposes.

2000

IN 1304—LS 6986/DI 101+



(2) Each county voter registration office, if the commission determines that the form is primarily used in voter registration.

(3) The state chairman of each major political party.

(4) The state chairman of any other political party who has filed a written request with the election division during the preceding twelve (12) months to be furnished with copies of forms.

(c) The election division, an election board, a circuit court clerk, a county voter registration office, or any other official responsible for receiving a filing under this title shall reject a filing that does not comply with this section.

(d) The commission shall specify the effective date of the form or revised form and may:

(1) delay the effective date of the approval of a form or revised form; and

(2) permit an earlier approved version of the form or an alternative form to be used before the effective date of the form; if the commission determines that an emergency requires the use of the form before copies can be transmitted to all persons entitled to receive copies of the form under subsection (b).

(e) ~~This subsection applies to a form permitting an individual to apply for voter registration or to amend the individual's existing voter registration record.~~ The commission may allow an earlier approved version of ~~the a~~ form to be used if the:

(1) earlier version of the form complies with all other requirements imposed under ~~NVRA~~ federal law or this title; and

(2) **commission determines that the earlier version of the form will not be confusing to the user of the form; and**

(3) commission determines that the existing stock of the form should be exhausted to prevent waste and unnecessary expense.

(f) This subsection applies to a form that the commission determines is used primarily by the election division. The commission may provide that an order concerning a form described by this subsection is effective immediately upon adoption, without any requirement to distribute the form to other persons.

SECTION 2. IC 3-7-31-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. The registration forms prescribed under section 1 of this chapter must:

(1) provide for the residence address and the mailing address of the individual completing the forms;

(2) contain a statement that a notice of disposition of the person's registration application will be mailed to the mailing address of the individual; and



C
O
P
Y

(3) ~~request the~~ **require the applicant to provide the last four digits of the applicant's** Social Security number. ~~of the applicant, as permitted under the federal Privacy Act of 1974 (5 U.S.C. 552a).~~

SECTION 3. IC 3-8-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 8. (a) A declaration of candidacy for the office of United States Senator or for the office of governor must be accompanied by a petition signed by at least five thousand (5,000) voters of the state, including at least five hundred (500) voters from each congressional district.

(b) Each petition must contain the following:

- (1) The signature of each petitioner.
- (2) The name of each petitioner legibly printed.
- (3) The residence mailing address of each petitioner.
- (4) The birth date of each petitioner.**

(c) This subsection applies to a petition filed during the period:

- (1) beginning on the date that a congressional district plan has been adopted under IC 3-3; and
- (2) ending on the date that the part of the act or order issued under IC 3-3-2 establishing the previous congressional district plan is repealed or superseded.

The petition must be signed by at least five thousand (5,000) voters of Indiana, including at least five hundred (500) voters from each congressional district created by the most recent congressional district plan adopted under IC 3-3.

SECTION 4. IC 3-8-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) A request filed under section 1 of this chapter must be accompanied by a petition signed by at least five thousand (5,000) voters of the state, including at least five hundred (500) voters from each congressional district.

(b) Each petition must contain the following:

- (1) The signature of each petitioner.
- (2) The name of each petitioner legibly printed.
- (3) The residence mailing address of each petitioner.
- (4) The birth date of each petitioner.**

(c) This subsection applies to a petition filed during the period:

- (1) beginning on the date that a congressional district plan has been adopted under IC 3-3; and
- (2) ending on the date that the part of the act or order issued under IC 3-3-2 establishing the previous congressional district plan is repealed or superseded.

The petition must be signed by at least five thousand (5,000) voters of

C
O
P
Y



Indiana, including at least five hundred (500) voters from each congressional district created by the most recent congressional district plan adopted under IC 3-3.

SECTION 5. IC 3-8-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6. The signatures to a petition of nomination need not be appended to one (1) paper, but a petitioner may not be counted unless at the time of signing the petitioner is registered and qualified to vote. Each petition must contain the following:

- (1) The signature of each petitioner.
- (2) The name of each petitioner legibly printed.
- (3) The residence mailing address of each petitioner.

(4) The birth date of each petitioner.

SECTION 6. IC 3-9-3-2.5, AS AMENDED BY P.L.176-1999, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2.5. (a) This section does not apply to any of the following:

- (1) A communication relating to an election to a federal office.
- (2) A communication relating to the outcome of a public question.
- (3) A communication described by this section in a medium regulated by federal law to the extent that federal law regulates the appearance, content, or placement of the communication in the medium.
- (4) Bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer required by this section cannot be conveniently printed.
- (5) Skywriting, water towers, wearing apparel, or other means of displaying an advertisement on which the inclusion of a disclaimer would be impracticable.
- (6) Checks, receipts, and similar items of minimal value that do not contain a political message and are used for purely administrative purposes.
- (7) A communication by a political action committee organized and controlled by a corporation soliciting contributions to the political action committee by the stockholders, executives, or employees of the corporation and the families of those individuals.
- (8) A communication by a political action committee organized and controlled by a labor organization soliciting contributions to the political action committee by the members or executive personnel of the labor organization and the families of those individuals.



C
o
p
y

(9) A direct mailing of one hundred (100) or less substantially similar pieces of mail.

(10) A distribution of not more than one hundred (100) substantially similar fliers, handbills, or brochures.

(b) This section applies whenever a person:

(1) makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate; or

(2) solicits a contribution;

through a newspaper, a magazine, an outdoor advertising facility, a poster, a yard sign, a direct mailing, or any other type of general public political advertising.

(c) For purposes of this section, a candidate is clearly identified if any of the following apply:

(1) The name of the candidate involved appears.

(2) A photograph or drawing of the candidate appears.

(3) The identity of the candidate is apparent by unambiguous reference.

(d) A communication described in subsection (b) must contain a disclaimer that appears and is presented in a clear and conspicuous manner to give the reader or observer adequate notice of the identity of persons who paid for and, when required, who authorized the communication. A disclaimer does not comply with this section if the disclaimer is difficult to read or if the placement of the disclaimer is easily overlooked.

(e) A communication that would require a disclaimer if distributed separately must contain the required disclaimer if included in a package of materials.

(f) This subsection does not apply to a communication, such as a billboard, that contains only a front face. The disclaimer need not appear on the front or cover page of the communication if the disclaimer appears within the communication.

(g) Except as provided in subsection (h), a communication described in subsection (b) must satisfy one (1) of the following:

(1) If the communication is paid for and authorized by:

(A) a candidate;

(B) an authorized political committee of a candidate; or

(C) the committee's agents;

the communication must clearly state that the communication has been paid for by the authorized political committee.

(2) If the communication is paid for by other persons but authorized by:

C
O
P
Y



- 1 (A) a candidate;
 2 (B) an authorized political committee of a candidate; or
 3 (C) the committee's agents;
 4 the communication must clearly state that the communication is
 5 paid for by the other persons and authorized by the authorized
 6 political committee.
 7 (3) If the communication is not authorized by:
 8 (A) a candidate;
 9 (B) an authorized political committee of a candidate; or
 10 (C) the committee's agents;
 11 the communication must clearly state the name of the person who
 12 paid for the communication and state that the communication is
 13 not authorized by any candidate or candidate's committee.
 14 (4) If the communication is a solicitation directed to the general
 15 public on behalf of a political committee that is not a candidate's
 16 committee, the solicitation must clearly state the full name of the
 17 person who paid for the communication.
 18 (h) A communication by a regular party committee consisting of:
 19 (1) a printed slate card, a sample ballot, or other printed listing of
 20 three (3) or more candidates for public office at an election;
 21 (2) campaign materials such as handbills, brochures, posters,
 22 party tabloids or newsletters, and yard signs distributed by
 23 volunteers and used by the regular party committee in connection
 24 with volunteer activities on behalf of any nominee of the party; or
 25 (3) materials distributed by volunteers as part of the regular
 26 party's voter registration or get-out-the-vote efforts;
 27 must clearly state the name of the person who paid for the
 28 communication but is not required to state that the communication is
 29 authorized by any candidate or committee.
 30 SECTION 7. IC 3-11-1.5-3 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) Except as
 32 provided in:
 33 (1) subsection (b);
 34 (2) subsection (c);
 35 (3) section 3.2 of this chapter; or
 36 (4) section 3.5 of this chapter;
 37 a county executive shall establish precincts so that a precinct contains
 38 ~~no not~~ more than ~~one two~~ thousand ~~two hundred~~ (1,200) (2,000) active
 39 voters.
 40 (b) This subsection applies to a precinct that includes:
 41 (1) an entire township, but does not cross a township boundary in
 42 violation of section 4 of this chapter;

C
o
p
y

(2) an entire city legislative body district, but does not cross the boundary of a city legislative body district;

(3) an entire town legislative body district, but does not cross the boundary of a town legislative body district; or

(4) one (1) residential structure containing more than ~~one two~~ thousand ~~two hundred~~ (~~1,200~~) (**2,000**) active voters and no other residential structure containing voters.

In changing precincts or establishing new precincts, a county executive shall arrange a precinct so that it will contain ~~no not~~ more than ~~one two~~ thousand five hundred (~~1,500~~) (**2,500**) active voters.

(c) A county executive is not required to establish precincts so that a precinct contains not more than ~~one two~~ thousand ~~two hundred~~ (~~1,200~~) (**2,000**) active voters if the precinct:

(1) was established by the county executive in compliance with subsection (a) within the preceding forty-eight (48) months; and

(2) contains not more than ~~one two~~ thousand ~~four three~~ hundred (~~1,400~~) (**2,300**) active voters.

SECTION 8. IC 3-11-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 19. Each circuit court clerk shall print or stamp ~~the precinct number or designation and~~ a line for each poll clerk's initials on both a ballot card and the ballot card's secrecy envelope before the election. **However, the clerk shall print or stamp the precinct number or designation on the ballot card only.**

SECTION 9. IC 3-11-13-26, AS AMENDED BY P.L.176-1999, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 26. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) The public test required by section 22(b) of this chapter shall be repeated and certified again in the same manner immediately before the start of the official count of the ballot cards.

~~(b)~~ (c) The certification shall be filed with the election returns but is not required to be filed with the election division.

~~(c)~~ (d) After the completion of the count, the county election board shall conduct a posttest using the same sample included in the public test conducted under section 22(b) of this chapter. The county election board shall certify the results of the posttest and file the certification with the election returns. A copy of the posttest certification is not required to be filed with the election division.

~~(d)~~ (e) After completion of the posttest, the tested tabulating machines shall be sealed in the same manner as voting machines under IC 3-12-2.5-6. The ballot cards and all other election materials shall be



C
o
p
y

sealed, retained, and disposed of as provided for paper ballots.

SECTION 10. IC 3-13-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. A candidate vacancy that exists on a primary election ballot may not be filled for the primary election. The resulting vacancy on the following general or municipal election ballot may be filled in the manner prescribed by this chapter, but only if it is filled ~~by noon August 1 before election day.~~ **not later than noon thirty (30) days after the primary election.**

SECTION 11. IC 3-13-1-7, AS AMENDED BY P.L.176-1999, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) Except as provided in subsection (c), action to fill a candidate vacancy for an office for which a declaration of candidacy must be filed with the secretary of state under IC 3-8-2-5 must be taken:

(1) ~~before not later than noon thirty-five (35) thirty (30) days~~ after the primary election if the vacancy exists on a general election ballot; ~~and or~~

(2) ~~within not later than~~ thirty (30) days after the occurrence of the vacancy, if the vacancy exists on a special election ballot. ~~subject to section 2 of this chapter.~~

(b) Except as provided in subsection (c), action to fill a candidate vacancy not described in subsection (a), must be taken:

(1) ~~before not later than noon August 1, thirty (30) days after~~ **the primary election** if the vacancy exists on a general or municipal election ballot; ~~and or~~

(2) ~~within not later than~~ thirty (30) days after the occurrence of the vacancy, if the vacancy exists on a special election ballot. ~~subject to section 2 of this chapter.~~

(c) This subsection applies to a candidate vacancy that exists due to:

- (1) the death of a candidate;
- (2) the withdrawal of a candidate;
- (3) the disqualification of a candidate under IC 3-8-1-5; or
- (4) a court order issued under IC 3-8-7-29(d);

before the thirtieth day before a general, municipal, or special election. Action to fill a candidate vacancy under section 3, 4, 5, or 6 of this chapter for reasons permitted under this subsection must be taken ~~within not later than~~ thirty (30) days after the occurrence of the vacancy.

SECTION 12. IC 3-13-1-15, AS AMENDED BY P.L.202-1999, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a



meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The address of each candidate.

(b) The certificate shall be filed with:

(1) the election division for:

(A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or

(B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge of a circuit, superior, probate, county, or small claims court or prosecuting attorney; or

(2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon ~~August 4, before election day~~ **three (3) days (excluding Saturdays and Sundays) after the deadline for filling the vacancy.**

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 13. IC 3-13-1-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 16.5. (a) All questions concerning the validity of a certificate of candidate selection filed with the election division shall be determined by the commission.

(b) All questions concerning the validity of a certificate of candidate selection filed with a circuit court clerk shall be referred to and determined by the county election board.

(c) The commission or a county election board shall rule on the validity of the certificate of candidate selection not later than noon ~~October 1 following~~ **fifty-six (56) days after** the filing of the certificate.



1 SECTION 14. [EFFECTIVE UPON PASSAGE] (a) As used in this
2 SECTION, "committee" refers to the census data advisory
3 committee established by IC 2-5-19-2.

4 (b) Before January 1, 2001, the committee shall study the
5 following:

6 (1) The standardization of municipal election calendars to
7 conform to county, state, and federal elections, including the
8 following possibilities:

9 (A) The elimination of town conventions under IC 3-8-5.

10 (B) The implementation of primaries for the nomination of
11 candidates in small town elections.

12 (2) The elimination of municipal elections in odd-numbered
13 years so that all municipal elections are held in
14 even-numbered years with countywide elections.

15 Before January 1, 2001, the committee shall make
16 recommendations regarding these subjects to the legislative council
17 as the committee considers necessary.

18 (c) This SECTION expires January 1, 2001.

19 SECTION 15. An emergency is declared for this act.

C
O
P
Y

